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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 PAUL HUPP,

12 Plaintiff,

13 vs.

14 SAN DIEGO POLICE
15 DEPARTMENT, et al.,

16 Defendants.

CASE NO. 12-cv-0492-GPC-RBB

**ORDER DIRECTING PLAINTIFF
TO FILE SUPPLEMENTAL
BRIEFING**

[DKT. NO. 107]

17 On November 19, 2012, the Court granted Plaintiff his motion for extension of time to file
18 a fourth amended complaint and dismissed previous motions to dismiss as moot. (Dkt. No. 101.)
19 Plaintiff was granted until December 14, 2012 to file his fourth amended complaint. (Id.) On
20 December 17, 2012, three days after the filing deadline for the fourth amended complaint had
21 passed, Plaintiff filed another motion for extension of time to file his fourth amended complaint.
22 (Dkt. No. 107.) Having reviewed the motion, and the Court requests supplemental information
23 regarding the referenced state court criminal matter and its relevance to the current pending case.
24 Accordingly, Plaintiff shall file on or by **January 23, 2013**, a supplemental briefing that includes
25 the case file number of the state court criminal action, and an explanation of how the criminal case
26 is related to the instant one.
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DISCUSSION

This is Plaintiff's fourth request for extension of time to file a fourth amended complaint. On September 5, 2012, Plaintiff filed a motion for leave to file a Fourth Amended Complaint. (Dkt. No. 66.) Defendants then filed motions to dismiss the third amended complaint. (Dkt. Nos. 72-73.)

On September 26, 2012 Judge Gonzalez denied Plaintiff's motion for leave to file a Fourth Amended Complaint without prejudice and ordered that on or before October 15, 2012, Plaintiff file a Fourth Amended Complaint. (Dkt. No. 84.) On October 16, 2012, Plaintiff filed an ex parte motion for extension of time to file a Fourth Amended Complaint, seeking an extension until November 12, 2012. (Dkt. No. 93.)

On October 22, 2012, this case was transferred to the undersigned judge and all pending hearing dates were vacated. (Dkt. No. 94.) On November 2, 2012, Plaintiff filed a third motion for extension of time to file a Fourth Amended Complaint. (Dkt. No. 98.) The Court reviewed Plaintiff's motion, and granted an extension of time until December 14, 2012 to file the fourth amended complaint. (Dkt. No. 107.) Plaintiff now submits his fourth request for an extension of time to file the fourth amended complaint. His main reason for seeking an extension of time is to "preserve work product/strategy/theory in a current pending state criminal case." He cites to Owens v. Kaiser, in which the Ninth Circuit asks the Court to consider any of the four factors in considering leave under Federal Rule of Civil Procedure 15(a): "bad faith, undue delay, prejudice to the opposing party, and/or futility." Owens v. Kaiser Foundation Health Plan, Inc., 244 F.3d 708 (9th Cir. 2001). Given that the Court has insufficient information to determine whether Plaintiff's reason for a continuance has any merit, the Court instructs Plaintiff to file a supplemental briefing on or before **January 23, 2013**.

DATED: January 3, 2013


HON. GONZALO P. CURIEL
United States District Judge